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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/288,263	04/08/1999	HIROYUKI WAKI	NAK1-BG55	7236

7590

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EXAMINER

LAFORGIA, CHRISTIAN A

ART UNIT

PAPER NUMBER

2156

DATE MAILED: 08/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/288,263

Applicant(s)

WAKI ET AL.

Examiner

Christian La Forgia

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-38 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: PTO-1533.

**DETAILED ACTION**

***Election/Restrictions***

- I. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-6, drawn to a virtual machine that operates various instruction sequences independent of the platform it is located on, classified in class 709, subclass 107.
  - II. Claim 7, drawn to a compiler for a virtual machine, classified in class 717, subclass 140.
  - III. Claims 8 through 18, 33, 34, and 35, drawn to a virtual machine that executes a virtual machine instruction sequence under control of a real machine that handles branching instructions and breaks in code, classified in class 712, subclass 206, 211, or 233.
  - IV. Claims 19 through 24, 36, and 37, drawn to a virtual machine that executes a virtual machine instruction sequence under control of a real machine that handles compressed instruction sequences, classified in class 711, subclass 170.
  - V. Claims 25 through 28, 32, and 38, drawn to a Just-in-Time compiler, classified in class 717, subclass 148.
  - VI. Claims 29 and 31, drawn to a storage method used by instruction storing means that stores a virtual machine instruction sequence, classified in class 712, subclass 202.
  - VII. Claim 30, drawn to a storage method used by instruction storing means that stores blocks of virtual machine instruction sequence, classified in class 369, subclass 30.03.

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2. The inventions are distinct, each from the other because of the following reasons:

3. Inventions I, II, III, IV, V, VI and VII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as in a system lacking a compiler for a virtual machine, a real machine that handles branching instructions and breaks in code, a real machine that handles compressed instruction sequences, a Just-in-Time compiler, a storage method used by instruction storing means that stores a virtual machine instruction sequence, and a storage method used by instruction storing means that stores blocks of virtual machine instruction sequence. Invention II has separate utility such as in a system lacking a real machine that handles branching instructions and breaks in code, a real machine that handles compressed instruction sequences, a Just-in-Time compiler, a storage method used by instruction storing means that stores a virtual machine instruction sequence, and a storage method used by instruction storing means that stores blocks of virtual machine instruction sequence. Invention III has separate utility such as in a system lacking a real machine that handles compressed instruction sequences, a Just-in-Time compiler, a storage method used by instruction storing means that stores a virtual machine instruction sequence, and a storage method used by instruction storing means that stores blocks of virtual machine instruction sequence. Invention IV has separate utility such as in a system lacking a Just-in-Time compiler, a storage method used by instruction storing means that stores a virtual machine instruction sequence, and a storage method used by instruction storing means that stores blocks of virtual machine instruction sequence. Invention V has separate utility such as in a system lacking a storage method used by instruction storing means that stores a virtual machine instruction

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sequence, and a storage method used by instruction storing means that stores blocks of virtual machine instruction sequence. Invention VI has separate utility such as in a system lacking a storage method used by instruction storing means that stores blocks of virtual machine instruction sequence.

4. The inventions are distinct, each from the other because of the following reasons:

(a) These inventions have acquired a separate status in the art as shown by their different classifications.

(b) The search required for each Group is different and not so co-extensive because these Groups would require different searches on PTO's classification class and subclass as following the Group I search (claims 1-6) would require use of search **Class 709, subclass 707** (not required for the inventions II, III, IV, V, VI, VII).

the Group II search (claim 7) would require use of search **Class 717, subclass 140** (not required for the inventions I, III, IV, V, VI, VII).

the Group III search (claims 8 through 18, 33, 34, and 35) would require use of search **Class 712, subclass 206, 211, or 233** (not required for the inventions I, II, IV, V, VI, VII).

the Group IV search (claims 19 through 24, 36, and 37) would require use of search **Class 711, subclass 170** (not required for the inventions I, II, III, V, VI, VII).

the Group V search (claims 25 through 28, 32, and 38) would require use of search **Class 717, subclass 148** (not required for the inventions I, II, III, IV, VI, VII).

the Group VI search (claims 29 and 31) would require use of search **Class 712, subclass 202** (not required for the inventions I, II, III, IV, V, VII).

the Group VII (claim 30) would require use of search **Class 369, subclass 30.03** (not required for the inventions I, II, III, IV, V, VI).

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

6. A telephone call was made to Mr. Joseph Price on 6 August 2002 to request an oral election to the above restriction requirement, but did not result in an election being made.

7. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christian La Forgia whose telephone number is (703) 305-7704. The examiner can normally be reached on Monday thru Thursday 7-5.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alvin Oberley can be reached on (703) 305-9716. The fax phone numbers for the organization where this application or proceeding is assigned are (703)746-7240 for regular communications and (703)746-7239 for After Final communications.

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11. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

Christian La Forgia  
Examiner  
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clf  
August 8, 2002

  
JOHN A. FOLLANSBEE  
PRIMARY EXAMINER